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SUMMARY RECORD OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 25 August 1997, at 6 p.m.

Chairman: Mr. BENGOA

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(continued)

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The meeting was called to order at 6.10 p.m.

FREEDOM OF MOVEMENT:

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(b) HUMAN RIGHTS AND POPULATION DISPLACEMENT

(agenda item 10) (continued) (E/CN.4/Sub.2/1997/22, 23)

1. Mr. GUISSÉ said that the right to leave and return to one's own country and to seek asylum from persecution was being jeopardized by the rise of extreme nationalism and xenophobia and the resurfacing of racist and fascist ideologies long thought to have disappeared. States were using sovereignty as a pretext for denying the principle of freedom of movement, rather than as a basis for safeguarding the domestic exercise of individual rights. Entry and exit visas were becoming increasingly difficult to obtain. Moreover, the unacceptable practice of charging a fee for visas was now widespread in the West and Africa and appeared to have the express purpose of keeping the poor out. In principle, any persecuted person had the right to seek asylum. In the past, the main reason for doing so had been political persecution, but today, with the end of the cold war, that was no longer the case. Famine, sickness and sheer poverty were driving thousands of people to seek refuge in other countries simply in the hope of finding a chance of survival. While it was difficult to accept the idea that such people were suffering from economic persecution, their situation had to be recognized and a solution to it found.

2. Mr. WEISSBRODT said that Mr. Boutkevitch's working paper on the right to freedom of movement and related issues (E/CN.4/Sub.2/1997/22) provided a very useful review of existing international standards. The emphasis should now be on identifying techniques to ensure their implementation. It was to be hoped that the full report would refer to a broader range of countries and that there would be a more detailed analysis of the major issues affecting freedom of movement in the world, including problems of population transfer, refugees and internally displaced persons.

3. He wished to draw the Sub-Commission's attention to the particular case of some 90,000 persons of Nepali ethnicity who had been forced to leave Bhutan some six years previously and were now mostly residing in camps in eastern Nepal. The Government of Bhutan considered many to be illegal entrants, even though most had documentary proof of Bhutanese nationality or long-term residence in Bhutan. After four years of slow-moving bilateral negotiations, the Bhutanese Government had finally acknowledged that some of the Nepali-speaking refugees had a right to return. The repatriation process had yet to begin, however. The Commission on Human Rights at its spring session might therefore assess the progress made in that regard. The international community should provide technical assistance to encourage a fair resolution of the problem in light of international human rights law.

4. Mr. KHALIL commended the Special Rapporteur, Mr. Al-Khasawneh, on his final report on human rights and population transfer (E/CN.4/Sub.2/1997/23).

The report had incorporated the findings of the expert group, which had concluded that population transfer and the implantation of settlers violated international law when one or more of a number of specific criteria were met. He noted in particular the references to deportations and expulsions under the guise of national security or other military imperatives and to deliberate demographic manipulation. In all cases, there was a violation of the right to self-determination. When examining the situation of displaced people, equal account should be taken of economic, social and cultural rights and civil and political rights. Annex I of the report contained a useful table of human rights norms affected by population transfer.

5. Mr. EL-HAJJÉ agreed that Mr. Al-Khasawneh's report dealt with a highly topical issue. Not only did it assess the various international and national situations in which illicit population transfer occurred, but it also served to confirm that the implantation of settlers was prohibited by international human rights law, which thus set limits on the power of individual States. One conclusion of the report was that forcible population transfer involved the absence of consent and the use of coercive measures. Furthermore, the right to return to one's own country, or to choose not to return, was affirmed, as was the responsibility of States to provide compensation to victims of ethnic cleansing policies. The recommendations made in paragraphs 70, 72, 74 and 75 were to be particularly welcomed.

6. Mr. TOWLE (Office of the United Nations High Commissioner for Refugees) observed that the tumultuous events which had occurred in the world since the previous session had highlighted the inability of many societies to resolve their differences peacefully and lawfully and had severely challenged the international community's capacity to safeguard the rights of the innocent and vulnerable. As an agency in the vanguard of the United Nations response to that challenge, UNHCR valued the Sub-Commission's contribution in establishing international standards.

7. The item under discussion was crucial to UNHCR's mandate, since the search for a durable solution to the plight of refugees was dependent upon the restoration of fundamental rights of which they were deprived during exile. Indeed, a recent UNHCR resolution had recognized the causative link between human rights violations and the creation of refugees and displaced persons and had called for improved coordination between United Nations human rights treaty bodies and operational agencies to ensure that principles were properly translated into action. Despite the proliferation of international standards, the plight of the most vulnerable remained acute.

8. Mr. Al-Khasawneh's report (E/CN.4/Sub.2/1997/23) highlighted the important contribution the Sub-Commission had made over the past five years to the study of population transfer in its broadest sense. The proposed draft declaration on population transfer and the implantation of settlers (annex II) was a useful initiative meriting further discussion.

9. Mr. Boutkevitch's paper (E/CN.4/Sub.2/1997/22) contained many useful ideas for future work, although its late appearance was to be regretted. It was more important now to rationalize and implement existing standards than to establish new ones. An expert seminar should be charged with preparing a survey of instruments relating to forced population displacement for the

purpose of exposing any duplications and lacunae, achieving a better definition of the legal and factual matrices of population displacement and identifying possible causes and consequences. UNHCR looked forward to continued cooperation with the Sub-Commission on the item in question.

10. Ms. KOREN (Worldview International Foundation) said that serious abuses of human rights in many parts of the world were frequently the direct product of contemporary forms of colonialism. Discrimination on the basis of race, national origin or religion was also often a symptom of that greater evil, as was the phenomenon of population transfer itself. The following criteria could be used to identify the presence of a colonial-type situation: the original population was not fully represented in the colonial Government; borders were imposed by the new Power; there was evidence of population transfer involving the implantation of settlers without the informed consent of the population; the colonial Power tended to impose a form of economic development benefiting the metropolitan State at the expense of the satellite region; it frequently also regarded itself as having a civilizing mission; the settlers continued to make a difference between themselves and the original inhabitants, who experienced colonized rule as alien. A mission to Tibet headed by Mr. Flinterman had found all of the above-mentioned criteria to be met and had concluded that Tibet was a de facto colony of China.

11. Ms. LUONG THI NGA (Pax Romana) drew attention to human rights abuses complicating the return of refugees in various parts of the world. In the former Yugoslavia, the various sides had not kept to the provisions of the Dayton Agreement, making the safe return of refugees unrealizable. In Burundi, the inhabitants of refugee camps were forced to carry out unpaid work and to sell humanitarian aid supplies in order to pay the Tutsi authorities. In the People's Democratic Republic of Congo, there had been mass slaughters of Burundi citizens. The conditions in the camps where preparations were being made for the return of refugees were horrendous, and arbitrary detention, unfair trials, torture and capital punishment were the norm. The Special Rapporteur of the Commission on Human Rights had described the attacks against the Hutu population as amounting to systematic genocide. According to government estimates, there were 250,000 refugees inside Burundi, 100,000 of whom had returned following the civil war in Zaire. Over 100,000 Burundi refugees had died on their way home, as had an unknown number of refugees from Rwanda. In Tanzania, the crowding in refugee camps had reached unprecedented levels by July 1997. At Karunga, 240,000 refugees fleeing from war to Tanzania had been massacred by the National Army. Meanwhile, in the Wanni district in Sri Lanka, refugees awaiting their return home without food, shelter, medicines or work were being forced to pay for permits. Those attempting to return were subjected to constant shelling and bombing.

12. In the European Union, there was a regrettable tendency to pursue policies which would effectively undermine the right to asylum. Refugees were detained in prisons, closed camps and airport transit zones pending assessment of their cases. It was also a matter of concern that six European countries did not recognize violence by non-governmental agents as a basis for granting asylum. Some developed countries even appeared to have a vested economic interest in humanitarian crisis situations, profiting from the sale of

vehicles, clothes and tents to people fighting for their very survival. Population displacements created lucrative markets totalling an estimated US$ 6 billion.

13. Pax Romana was in favour of the inclusion of the right to voluntary repatriation in all principles of international law applicable to transfers of populations and of the establishment of a flexible monitoring system.

14. Mr. KONO (African Commission of Health and Human Rights Promoters) said that all persons should have the right to return voluntarily and in safety and dignity to their country of origin. International law should provide for full compensation of displaced persons, including restoration of their property, and countries should legislate accordingly. All the recommendations and conclusions of the expert seminar were to be welcomed, especially with regard to the establishment of international standards providing for the criminal responsibility of individuals involved in population transfer and massacres. Far too many war criminals currently escaped punishment for their crimes against humanity.

15. In view of the consensus condemnation by the Security Council of the Zairian coup d'état of 25 May 1997, he called upon the Secretary-General to reinforce military efforts and mandatory economic sanctions against the military junta with a view to achieving the reinstatement of the civilian Government, which had the support of the entire population. He also wished to draw the Sub-Commission's attention to the human rights situations in a number of other African countries which had undergone unwarranted coups d'état, such as the Central African Republic and the Congo. A particularly grave situation existed in Burundi, where over 500,000 displaced persons were estimated to have been forcibly grouped in camps.

16. Mr. PAPPALARDO (France Libertés) highlighted the plight of hundreds of thousands of people in Burma whose very survival was uncertain. The State Law and Order Restoration Council (SLORC) was increasingly making its presence felt and had emptied entire regions of their population in an attempt to isolate ethnic minorities or rebel army groups. Any persons refusing to leave their homes were arbitrarily executed by the military, and whole villages were burned to prevent anyone from returning. Since 20 March 1997, at least 100,000 people, a third of the region's population, had been displaced, including 75,000 of the 90,000 Karen. Other violations against the ethnic minorities included monetary extortion, rape and summary execution. Their only hope was to flee. Since March 1997, 16,000 Shans had escaped to the Thai frontier, followed by 30,000 Karen. In 1991, SLORC had deliberately provoked a famine in order to cause 270,000 Muslims to flee to Bangladesh. The attempt on the part of Burmese authorities to rid the country of unwanted persons was causing instability and further population transfers in neighbouring countries. As a result of the intolerable living conditions in the camps, hundreds of thousands of Burmese refugees had been reduced to vagrancy. The Burmese army had no intention of ceasing its policy of ethnic cleansing and was planning to eradicate more villages. He urged the Sub-Commission to press for an end to the displacements in Burma and for freedom of movement for Aung San Suu Kyi, holder of the 1991 Nobel Peace Prize.

17. In Mauritania, the Nouakchott authorities had deported tens of thousands of Mauritanian Blacks to Senegal following the events of 1989. Over 300 villages had been emptied of their inhabitants, whose homes and lands had subsequently been appropriated by implanted sellers. Sixty-six thousand uprooted people were settled in appalling conditions along the Senegal River, with no proof of identity. The international community had withdrawn all support for the refugees on 31 December 1995, since Senegal had failed to renew its request for international aid. The Mauritanian authorities must be persuaded to organize the dignified and safe return of the refugees.

18. Mr. MARCELLI (International Educational Development) said that the practice of forcibly settling one ethnic nationality on another people's territory usually had the express purpose of undermining claims to self-determination. In order to create what the Javanese International Government termed the "new Indonesian people", Javanese people had been offered incentives to settle in areas traditionally claimed by the Moluccans and other ethnic groups. The Moluccan language and customs had been suppressed, and Moluccans now constituted only a small percentage of the total population. They had been subjected to alien rule since July 1950, when Indonesian forces invaded the islands in violation of independence agreements. The Moluccas should be returned to the Moluccan people.

19. Another matter of extreme urgency which merited the attention of the Sub-Commission was that of the Tamil people in Sri Lanka. At least 500,000 were living in makeshift camps, mainly in the Wanni district, and thousands more in exile. Sri Lanka had been ravaged by war for 17 whole years. If the Sub-Commission had responded as it should have done, hundreds of thousands of people might now be rebuilding their lives.

20. There could be no solution to the war without international mediation, and to that end it was important that the international community should be exposed to the viewpoints of all sides. Foreign journalists were, however, being denied access to the conflict zones, and representatives from the area had been refused visas to enable them to appear before the Sub-Commission, their freedom of movement thus being effectively restricted by the Sri Lankan authorities.

21. Mr. PROVE (Lutheran World Federation), speaking on behalf of the World Christian Live Community, Caritas Internationalis, Oxfam UK and Ireland, Habitat International Coalition, the Jesuit Refugee Service and Save the Children Fund UK, said that international instruments affirming the freedom of movement were usually cold comfort to people being denied that right. The issue of refuge and protection was a transitory concern, given that the ultimate solution must involve a return to the refugee's country of origin.

22. The Bhutanese refugees in Nepal and India, representing more than one sixth of the entire Bhutanese population, were probably the world's largest group of refugees. Over 100,000 currently lived in exile with no clear prospect of returning home. In 1996, a large number had marched to Bhutan to petition the King and had been immediately deported to India and subsequently returned by Indian police to the Nepali border. A European Parliament resolution of 14 March 1996 called upon the Governments of Bhutan

and Nepal to reach an agreement on the repatriation of the refugees, given that most appeared to qualify as genuine citizens. No progress had been made since that time.

23. The organizations he spoke for therefore called upon the Sub-Commission to affirm the right of the refugees to return voluntarily and in a dignified manner to their country of origin and to urge the Bhutanese Government to prepare for the restoration of their rights upon their return. The Governments of Bhutan and Nepal should be urged to immediately resume negotiations, with neutral third-party mediation, with the aim of establishing a fair and internationally monitored verification process which would use internationally recognized principles to determine which persons had a right to return to Bhutan. UNHCR and the Commission on Human Rights should work together to assist the Governments in securing an early resolution of the crisis. UNHCR should also encourage the maintenance of appropriate levels of assistance and protection in the camps.

24. Mr. ARIF (Afro-Asian Peoples' Solidarity Organization) said that in today's globalized world, individual Governments were not always to blame for the violation of human rights in their countries. All too often, it was the economic and political ambitions of other States which provoked conflict, instability and large-scale displacements, with long-term repercussions. The people of Afghanistan, who had never before allowed outsiders to subjugate them, were today on the brink of disaster as a result of the interference of a neighbouring country. Pakistan was using the Taliban army in Afghanistan to export its own brand of political and religious fundamentalism, causing a proxy war involving a large-scale displacement of women and children. It was high time the Sub-Commission took action to put an end to ethnic cleansing.

25. Mr. ARNOTT (War Resisters' International) reminded the Sub-Commission that forcible population transfer had been classified by the International Law Commission as a crime against humanity. A cause as well as a result of conflict, it brought about massive violations of human rights. Population transfer was frequently part of a strategy to control civilian populations in civil war, as in the forcible removal by the Burmese military of more than 150,000 Shan and Karen villagers over the past few months, resulting in numerous deaths and major refugee flows. Other instances of population transfer included forced evictions for "development" projects such as the Three Gorges Dam in China, the Indian Narmada Valley dams, or the gas pipeline being built by a consortium of transnational corporations from Burma to Thailand. Population transfers could also accompany the seizure of land for tourism projects. A working group on population transfers, modelled on the Working Groups on Minorities and Indigenous Populations, could serve a useful preventive function by focusing on the root causes of mass expulsions and helping to mediate in emerging crises.

26. It was to be regretted that Thailand and Bangladesh still appeared intent on a policy of refoulement of Burmese refugees. The Thai Government was under the mistaken impression that the prohibition of refoulement, including rejection at the frontier, applied only in situations involving fighting. In actual fact, international law also prohibited forcible return

of people to a situation in which they had a well-founded fear of persecution, as was the case with refugees on the Thai-Burmese border and Burmese Muslim refugees in Bangladesh.

27. Mr. BHAN (International Institute for Peace) said that the exodus of the entire Pundit minority from Kashmir at the behest of Pakistan militants constituted the largest and most tragic population displacement in contemporary history, involving a particularly vicious brand of fundamentalism and ethnic cleansing. The makeshift camps into which the community had been herded contrasted sharply with the comfortable and honourable life they had led in Kashmir, where their roots could be traced back for thousands of years. Although the popularly elected Government had initiated measures to return the Pundit community to Kashmir and create conditions for a decent life, terrorist attacks obliged the community to abandon the idea of returning whenever any steps were taken in that direction. The only fault of the Muslims appeared to be their espousal of a liberal social code. The speaker, who was himself a member of the affected community, appealed to the conscience of the world to take appropriate action.

28. Ms. PROVÓ KLUIT (Pax Christi International) welcomed the fact that an expert seminar had been held in February 1997 to assist Mr. Al-Khasawneh in the preparation of his valuable report (E/CN.4/Sub.2/1997/23). It had been the first meeting of its kind since the international conference on human rights dimensions of population transfer organized by the Unrepresented Nations and Peoples' Organization in Tallinn in 1992.

29. Forced transfer of population groups from their native lands and the implantation of settlers without informed consent had led to conflicts throughout the world. She drew attention to the repercussions of ethnic cleansing policies in the former Yugoslavia and to Stalin's deportations in the former Soviet Union and the transfer of Russians to the Baltic States and most outlying parts of the former Soviet Empire. The implantation of settlers had also been essential to establishment of colonies by European Powers and had brought about the genocide of many peoples including indigenous Americans, Australians and Hawaiians. The international community was failing to consider the future implications of transfers of populations occurring at the present time, such as the settlement of Javanese and other Indonesians in West Papua, the Moluccas and East Timor and the implantation of Chinese people in Tibet. The world only awoke to the effects of the population transfers when the conflicts they inevitably precipitated became violent. Rather than tackling symptoms, the United Nations should attempt to address the root causes of conflicts. The Sub-Commission should establish standards that would put an end to the practice of population transfer, which threatened the survival of entire peoples. To that end, the establishment of a Working Group would be most welcome.

30. Mr. BARUA (Liberation) said that between 1979 and 1984, 400,000 people had been relocated to the Chittagong Hill Tracts from the Bangladeshi plains, bringing an entirely different language and culture with them. The indigenous people had been forcibly removed from their lands and made to shelter in refugee camps in neighbouring countries as part of a deliberate demographic manipulation policy. Non-Bengali citizens had to obtain permits to enter the Hill Tracts, which were controlled by the military. There were

approximately 51,000 members of the security forces for 600,000 indigenous people. The latter risked being outnumbered in their own homeland and would cease to exist as a distinct people unless an urgent solution was found. He called upon the United Nations to provide them with the assistance they needed.

31. Mr. JOINET said that whereas during the Soviet era the Sub-Commission had focused its attention under agenda item 10 on an individual's right to leave his or her own country and to enter another, today the focus was on the right of whole groups of people to return to their homelands. In all cases, the only solution was negotiations. If they reached deadlock, as in the case of refugees in Nepal, the international community would be forced to resort to other measures. The draft declaration contained in annex II to Mr. Al-Khasawneh's report (E/CN.4/Sub.2/1997/23) was meant to be universally applicable, which was why individual examples had not been cited.

32. Mr. BOSSUYT said he wished to remove certain misapprehensions as to the responsibility of States regarding the right to leave any country including one's own. No State had the right to prevent a person possessing its nationality from leaving the country in which he found himself. The only exceptions to that right applied to persons undergoing legal proceedings or sentenced to imprisonment. States were not, however, obliged under that right to authorize foreigners to enter their country. The right to return to their own country could only be invoked by nationals of the State in question, but that did not preclude other agreements between States regarding the right to travel, work or even settle on each other's territories. A State could choose to authorize any person to enter its territory, subject to any restrictions it might impose, but there was no provision in general or humanitarian international law according all persons the right to enter or settle in any country of their choice, nor should States be expected to accord that right. Some countries had developed costly systems of social security under which all persons legally settled on their territory, whether or not they be nationals, were entitled to a decent standard of living. It would be beyond the capacity of such systems to provide for any and every person who preferred to live in a country possessing such a system. Many developed countries had thus been forced to implement measures to combat unlawful immigration. As a result, in the late 1980s and early 1990s, the number of requests for asylum had increased, but the overwhelming majority had been found to be groundless according to the provisions of the Geneva Convention relating to the Status of Refugees. The notion of "refugee" should not be broadened to include persons leaving their country for economic reasons, since they could be better assisted in their country of origin, whereas political refugees who feared for their lives could not. It was to be hoped that Mr. Boutkevitch would take those observations into account in his next report.

33. Mr. EIDE said that the world was beginning to realize that the question of citizenship and nationality was no longer a purely domestic affair. Underlying many of the problems under consideration was the ideology of "ethnonationalism", which demanded exclusive loyalty to a nation defined in ethnic terms. At best, ethnonationalism resulted in discrimination against persons belonging to other ethnic groups and seriously challenged the basic principles of equality and non-discrimination in the human rights field. At worst, it led to population transfers, including the implantation of settlers

who were considered to be ethnically undesirable and the exclusion of persons who were not. Practices such as forcible exile, mass expulsion, deportations, forcible population exchange, eviction and ethnic cleansing (both within a country and across its borders) not only deprived people of the freedom of movement, but also threatened the security of States and were major causes of refugee flows. Huge numbers of refugees in the world had been awaiting return to their ancestral lands for decades. A comprehensive strategy must be devised to ensure that existing standards were implemented and new standards developed where necessary. Mr. Al-Khasawneh's report (E/CN.4/Sub.2/1997/23) was an important contribution in that regard. Certain elements were currently under consideration by the International Law Commission and in the context of the draft European Convention on Nationality.

34. Mr. Boutkevitch's report (E/CN.4/Sub.2/1997/22) represented a highly revealing review of earlier deliberations within the Sub-Commission and Economic and Social Council. During the Cold War, the West had focused above all on the right to leave one's own country, whereas others had been more concerned with the right to enter a country. The problem today was fundamentally different, given that the right to leave one's own country was rarely denied by authorities. The important issue now was the right to remain in peace in one's own land, or to return to one's own land, as well as the right to move to any other place inside or outside one's country when intimidation, expulsion or economic deprivation made it impossible to remain. Mr. Boutkevitch's examination of the situation in Central and Eastern Europe, including the former Soviet Union and former Yugoslavia, was most interesting. However, other examples deserved mention, such as the situation of Bhutanese refugees of Nepalese origin, of the Tamil tea plantation workers in Sri Lanka and the Palestinian refugees.

35. Mr. Boutkevitch might also examine the situation of persons who no longer had any links with the country of their ancestors and whose only concern was to live in the country in which they had resided since birth. In the case of persons of Russian or Ukrainian origin who had grown up in the Baltic States, what country could be said to be their own? The tragic situation of Ingush and other such groups deported by Stalin, who were facing new problems upon their efforts to return, also deserved mention. While both reports were to be commended, there was a need for further consideration of the issues. The item under discussion should constitute the core concern for the Sub-Commission in coming years.

36. Mr. MEHEDI complimented Mr. Al-Khasawneh on his methodology and on the legally acceptable terminology he had used in his report (E/CN.4/Sub.2/1997/23). The report did, however, omit to refer to the case of persons displaced as a result of natural catastrophes such as famine. Those persons were especially vulnerable and should have the right under international law to legal protection and material assistance. Article 1.2 of the African Convention stipulated that a person could find asylum in another country when public order was disturbed. The history of the African continent had been shaped by natural disasters; countries less prone to such events were not always prepared to recognize economic refugees.

37. The Sub-Commission's priority should not be to formulate new standards as recommended in paragraph 73 of Mr. Al-Khasawneh's report, but to encourage

wider ratification of existing instruments. The draft declaration in annex II was to be welcomed, but its title would benefit from the insertion of the word "illicit" before "population transfer".

38. Mr. MAACHOU (Arab Lawyers Union) pointed out that the report made no mention of the situation in Israeli-occupied Arab territories, especially the continued implantation of settlers in the Jerusalem basin, the demographic alteration of the Arab Town in Jerusalem and the deliberate erosion of its Arab character. As part of the Israeli policy of ethnic cleansing, more than 10,000 people had been deprived of their homes in Jerusalem, as many as 6,000 within the space of one year. Human rights violations in the territory had only increased since Israel's ratification of the Fourth Geneva Convention. The authorities had seized more lands and blocked the transfer of US$ 7 million to the Palestinian Council. Solutions must be found irrespective of the cause of displacement.

39. Mr. CONNEL (North-South XXI), said that the situation of Tamil people had deteriorated drastically since the Special Rapporteur on displaced persons had completed his report in 1994. Government military offensives had resulted in genocidal attacks and continuous displacements of the Tamil people, especially after the invasion of Jaffna in October 1995, which had caused 500,000 Tamils to move southwards. For 40 years, the State had been pursuing a policy of demographic manipulation, implanting Sinhalese settlers in border areas between the traditional Tamil homeland of the north and east and the predominantly Sinhalese south. In Trincomalee, the current population was 30 to 40 per cent Sinhalese, compared with only 4 per cent in the 1960s. Only the previous week, government-armed Muslim home guards had attacked Tamil villagers in the east, causing them to flee. For three years, no foreign journalists had been given access to the Northern Province. According to the eye-witness account of a priest working in the Wanni region, it was fear of slaughter and harassment by the Sinhalese army which had caused thousands of Tamils to flee to the region when forces had moved into Thenmaradchi in April 1996. Any Tamils attempting to return home were subjected to serious human rights abuses, including arbitrary arrest and rape, and there were numerous instances of extrajudicial killings and disappearances.

40. Some members of the displaced Tamil community were being kept in so-called welfare centres, where they were subjected to immense hardships and psychological trauma. The function of the centres was purportedly to screen those heading for Colombo and elsewhere, but that process could take as much as a year, during which time children were separated from their parents. Foreign and local NGOs were attempting to provide the people in the camps with basic necessities, since the Government was refusing to make adequate supplies available. The international community must not overlook the plight of the 70,000 displaced people in the Wanni region.

41. Mr. CHOEPHEL (Society for Threatened Peoples) noted that Mr. Al-Khasawneh's report had found population transfer, including the implantation of settlers, to be unlawful even when conducted under the guise of development. It was to be regretted that the case of Tibet had not been cited as an example. Tibet constituted one of the largest Chinese colonies. In historical Tibet, an area much larger than the Chinese-designated Tibet Autonomous Region, the Chinese population had increased since 1949 from only a

few thousand to some 5.5 million according to the Chinese census, and possibly to as many as 7.5 million according to the Tibetan Government in Exile. Since 1949, China had used financial and other incentives to move Chinese settlers into Tibet, despite the strong opposition of Tibetans, who were now a minority within their own country. Not only had the massive transfer of Chinese settlers and troops had a devastating impact on the fragile environment and the economic, social and cultural rights of Tibetans, but they were not even allowed to participate in economic development projects, which primarily made use of Chinese workers, even in unskilled positions. The most insidious practice was the restriction of child-bearing, involving coerced abortions and the sterilization of Tibetan women. The very survival of the Tibetan people was thus under threat. Only the previous week, Chinese authorities had embarked upon a campaign making it a crime to express the view that Buddhism had made a significant contribution to Tibetan culture and thus seeking to redefine the people's very identity. The Dalai Lama had said in 1987 that if the Tibetans were to survive as a people, it was imperative that the population transfer be stopped and that Chinese settlers return to China. Otherwise, Tibetans would soon be no more than a tourist attraction, and a mere relic of a noble past.

42. Mr. WARIKOO (Himalayan Research and Cultural Foundation) said that the Sub-Commission should make a special study of religious extremism and terrorism, which had been a direct cause of population displacements in Southern and Central Asia, causing untold social, psychological and physical trauma. In Afghanistan, the human rights situation had only worsened since the Taliban military takeover in September 1996, which had resulted in the displacement of some 120,000 persons, 50,000 of whom had left when the Taliban imposed strict Islamic law on Kabul, closing all schools and banning women from working. In adjoining Turkmenistan, 60,000 persons had been displaced in the civil war of 1992, which had been provoked by a rise in religious extremism in the area.

43. The speaker had himself been an eyewitness to the miserable plight of the 400,000 Kashmiris in camps in Jammu and Delhi, who had been displaced, in a classic example of ethnic and religious cleansing, by armed terrorists who publicly took pride in killing Hindus in the name of Jehad. Many members of the indigenous community were already in their eighth year of displacement. As many as 1,500 had been brutally murdered and more than 10,000 had died from unnatural causes. More than 20,000 homes and hundreds of business, religious and educational establishments had been destroyed with the objective of eliminating the traces of more than 5,000 years of civilization. Although the newly elected Government had been talking of returning refugees, there had been a renewal of terrorist attacks against returnees. Religious extremism and xenophobia were the root causes of those traumatic events. It was high time that steps were taken to protect the human rights of such displaced persons.

44. Mr. ZACKHEOS (Observer for Cyprus) thanked Mr. Al-Khasawneh for referring in an objective manner to Cyprus in his report, which merited the widest possible dissemination. The Turkish occupation of Cyprus had been the first case of ethnic cleansing in Europe after the Second World War. It had evidently had as its aim the creation of a territorial base for Turkey's long-term expansionist aims: 35,000 heavily armed Turkish troops had invaded

Cyprus, displacing one third of its population. Turkey had implanted approximately 109,000 mainland Turks in the occupied territory with a view to altering the demographic structure of the island. There had been massive emigrations of the indigenous Turkish Cypriot population, which had dwindled as a result from 18 per cent in 1974 to approximately 10 per cent. There were now only 650 Greek and Maronite Cypriots left in the occupied territory. Approximately 37 per cent of the island was still occupied and the displaced people were prevented from returning in safety to their homes. The few who had not left the enclaved area were subjected to inhuman treatment. Greek Cypriots were not permitted to bequeath immovable property to relatives, and their children attending school in the free areas once they reached a certain age were not permitted to return to the enclaved area. The Report of the European Commission of Human Rights of 2 April 1992 (application No. 8007/77 Cyprus v. Turkey) had found that Turkey violated the European Convention on Human Rights and its Protocol and that the violations were exclusively directed against the Greek Cypriot community. A humanitarian review conducted by United Nations forces had confirmed that the enclaved Greek Cypriots were far from living the normal life they had been promised.

45. Cyprus was in favour of the adoption of an international instrument and the establishment of a working group to monitor compliance with the Declaration.

46. Mr. GUILLÉN (Observer for Peru) said that between 1980 and 1992, an estimated 600,000 people had been displaced by terrorist violence from rural areas in Peru to areas where, although relatively safe, they suffered major economic and social problems, a situation which had led to instability, an institutional vacuum and legal difficulties. The Peruvian Government had established a governmental institution responsible for providing assistance to the victims and strengthening coordination between State bodies. In 1993, in response to the gradual, voluntary return of those displaced persons, the Government had established a programme to support the returnees and provide basic conditions for their resettlement as part of the pacification process. That project had subsequently been raised to the level of a support programme and had recently been placed under the aegis of the Ministry for the Promotion of Women and Human Development, broadening its focus and involving the beneficiaries in their own development process. The programme had included over 200 projects in the areas of infrastructure, production, education, health and agriculture. Rural teachers had been trained and schools established for the children of displaced families, and a temporary identity register had been set up for the over 600,000 Peruvians without documentation.

47. However, individual countries could do little to solve problems of that magnitude; the international community's support was essential. In that regard, Peru attached great importance to, and participated actively in, the work of the various United Nations bodies. His delegation welcomed the adoption by the Commission on Human Rights, at its fifty-third session, of its resolution No. 1997/78 on the rights of the child, particularly chapter V thereof, which dealt with refugee and internally displaced children. It also welcomed the holding of the expert seminar on population transfer and the implantation of settlers at Geneva earlier in the current year; that issue was of great importance and should be the subject of ongoing analysis.

48. Lastly, he noted that since the beginning of the mandate of the representative of the Secretary-General on internally displaced persons, in 1992, the problem of such persons had grown to include between 35 and 40 countries and had become a complex issue involving a network of underlying problems associated with the development process. He therefore urged the international community to continue its support, through international cooperation, for the countries and peoples which suffered from that difficult situation.

49. The CHAIRMAN invited government representatives to reply to allegations made against their countries.

50. Mr. MERIÇ (Observer for Turkey) said that the Cyprus issue was a political one, whose causes were known to all. The human rights violations on the island derived from complex problems, for which the Government of Cyprus must share a large part of the responsibility. Moreover, the ethnic cleansing to which the Turkish Cypriot community had been subjected in the 1960s was one of the root causes of the problem. The Turkish Cypriot community were being denied the basic human right to have their viewpoint heard.

51. Mr. ZACKHEOS (Observer for Cyprus) said that both communities had suffered as a result of Turkey's aggressive policies in Cyprus, and it was primarily Turkish Cypriots who were seeking political asylum in the United Kingdom and elsewhere. Turkey must be urged to let the two communities forge a common future based on respect for human rights for all.

52. Mr. SHEN Yongxiang (Observer for China) said that the mission headed by Mr. Flinterman had not been mandated by the United Nations, but had visited Tibet at the invitation of the Chinese Government. It had used illegal means to investigate separatist activities and the untruthful claims it was making regarding Chinese colonization of Tibet could only be motivated by old colonial attitudes. Tibet was a part of China, as recognized by the international community, and by Marco Polo in his time. It was only later that Western Powers had tried to separate Tibet from China in an attempt to make it their own colony. Such attempts had been quelled by the Chinese people, including the Tibetans. There was no danger that the colonial era would be repeated.

53. Ms. JANJUA (Observer for Pakistan) said that the blatantly false charges levied against Pakistan did not merit a reply. The Indian NGOs' sole objective throughout the session had been to malign Pakistan. The claim that Pakistan supported fundamentalism was totally unfounded. Religious parties had never won more than 3 per cent of parliamentary seats in Pakistan, whereas the fundamentalist Hindu party in India had nearly 40 per cent of seats and was gaining in public support and power. The Indian Government was doing nothing to prevent the massive desecration of mosques by supporters of that party. Those same NGOs seemed to lack the courage to speak of human violations in their own country, preferring instead to attack Pakistan.

54. Mr. AL-KHASAWNEH explained that he had not included natural disasters in his report because his intention had been to focus on forced population transfer as a result of active human intervention. He recognized, however, that natural disasters could complicate the phenomenon of population transfer

and that it was not always possible to distinguish between man's actions and natural events. Many Governments did, however, blame nature for their own failures.

55. Humanitarian law assumed any prolonged military occupation to be an abnormal situation since it often became an excuse for demographic manipulation.

56. The report for which he was responsible (E/CN.4/Sub.2/1997/23) was intended to be thematic in nature so that the relevant legal principles could be formulated. Individual situations had only been cited where they helped illustrate the point in question.

The meeting rose at 9 p.m.